

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1540.00
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: March 2, 2000
DATE OF REPORT: April 13, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: May 9, 2000

COMPLAINT ISSUES:

Whether the Hamilton Southeastern School Corporation and the Hamilton-Boone-Madison Special Services Cooperative violated:

- 511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's individualized education program (IEP), specifically:
 - a. failing to implement accommodations as identified; and
 - b. failing to implement the behavior plan.
- 511 IAC 7-6-7 with regard to the school's alleged failure to administer medication to the student as agreed by the school and the parents.

During the course of the investigation, additional issues were identified, which are:

- 511 IAC 7-5-3(a)(2) and (3) with regard to the school's alleged failure to provide training to school personnel regarding bipolar disorders.
- 511 IAC 7-12-1(k)(4) with regard to the school's alleged failure to include in the IEP the length and frequency of special education services.
- 511 IAC 7-12-1 with regard to the school's alleged failure to provide the student with contact from a teacher licensed in the area of emotional handicaps two times in a nine week period.

The complaint report was originally due on March 31, 2000, however, due to a school holiday and the need to obtain additional information an extension was approved by the State Director of Special Education extending the deadline until April 14, 2000.

FINDINGS OF FACT:

1. The student is a twelve-year-old, sixth grade student, who has been determined eligible for special education and related services under the category of other health impairment.
2. An IEP was developed for the student on November 24, 1999, and amendments to the IEP were written at CCC meetings convened on January 20, 2000, and February 2, 2000. There is no mention of the need for any instructional accommodations for the student in any of the three IEPs or CCC Reports. The IEP of November 24, 1999, states the student will participate in a

standardized statewide testing program without modifications. The parent signed and dated each IEP indicating her agreement with the IEPs and the recommendations made by the CCC.

3. At the CCC meetings convened on January 20, 2000, and February 2, 2000, a form labeled "Discussion Summary (Optional)" was completed for the student. Under this heading is a checklist to mark if a particular issue is discussed at the CCC meeting. One of the items on the checklist is, "Developed a behavior management plan." The box for this item was not checked on either IEP, however, the school states the notes written on these pages are the behavior plans for the student. Based on their conversations with school personnel, it is the parent's understanding that the notes written on the "Discussion Summary (Optional)" forms were the behavior plans for the student. The notes on these pages are not identified as a behavior plans.
4. The Discussion Summary notes dated February 2, 2000, state the parents want a daily report on behavior, and daily goal sheets will be sent home and signed nightly by the parents. The parents state they did not receive the student's daily progress reports for February 9, 10, 11, 21, and 22, 2000. The school has provided copies to the Division of the daily progress reports for the dates in question except for February 21, 2000, which the school states was not returned to the school after being sent home. The parent's signature is on the daily progress reports for February 9, 10, 11, and 22, 2000.
5. The student receives two medications at school daily. The school and the parents have agreed on times that the medication should be administered to the student. According to a Health Services Consultant with the Indiana Department of Education, medication is considered to be given on time if administered within thirty minutes before or after the designated time, unless otherwise specified by a physician. According to the daily medication logs, there have been at least four occasions since the beginning of the school year where the student's medication was administered more than thirty minutes late. The school's policies and procedures do not address the issue of timeliness in regards to the administration of medication.
6. The Director states that during the month of December, 1999 all school personnel working with the student received training in the area of bipolar disorders. In early February, 2000 additional information regarding the topic was secured by the school. On March 8, 2000, an in-service training session was held on the topic of bipolar disorders for the entire school staff.
7. The IEP of November 24, 1999, lists that counseling will be provided at school two afternoons per week or more. There is no indication as to the length of the counseling sessions. The CCC Report dated January 20, 2000, states the counselor will see the student on Monday and Friday during study hall and on Thursday mornings. There is no indication as to the length of the counseling sessions.
8. The IEP of November 24, 1999, states the student will receive contact two times a nine weeks with a particular teacher who has a license to instruct students with emotional handicaps (EH). In addition, the IEP states this teacher will be available to assist regular classroom teachers to implement appropriate class interaction. Due to a maternity leave, the EH teacher was unable to implement this component of the IEP. The school submitted the student's daily progress reports to indicate compliance with this requirement, however, there is no indication on the forms that this component of the IEP was implemented.

CONCLUSIONS:

1. Finding of Fact #2 indicates a need for instructional accommodations was never identified by a

CCC. Therefore, no violation of 511 IAC 7-12-1 is found.

2. Finding of Fact #4 reflects that the parents received the student's daily progress reports as specified in the amended IEP written on February 2, 2000. Therefore, no violation of 511 IAC 7-12-1 is found.
3. Finding of Fact #5 reflects that the student's medication has been administered more than thirty minutes late on at least four occasions. Therefore, a violation of 511 IAC 7-6-7 is found.
4. Finding of Fact #6 indicates that school personnel working with the student have received training in the area of bipolar disorders. Therefore, no violation of 511 IAC 7-5-3(a)(2) and (3) is found.
5. Finding of Fact #7 indicates that the IEPs written on November 24, 1999, and January 20, 2000, do not specify the length of time that the counseling service will be provided. The IEP of November 24, 1999, is not specific as to how frequent the counseling service will be provided. Therefore, a violation of 511 IAC 7-12-1(k)(4) is found. Although a violation is noted, the Director has supplied the Division with documentation that corrective action has been taken to advise all staff that the length and frequency of special education services must be appropriately written in all IEPs.
6. Finding of Fact #8 reflects that EH teacher was unable to provide contact to the student two times in a nine week period. Therefore, a violation of 511 IAC 7-12-1 is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Hamilton Southeastern School Corporation and the Hamilton-Boone-Madison Special Services Cooperative shall:

1. Convene a CCC meeting to determine the need for compensatory counseling services, and to determine the frequency and length of time for the counseling sessions. The CCC will also need to determine if there is a need for compensatory services in regard to the student needing consultation services from an EH teacher, and whether this teacher will need to be available to consult with general education teaching staff to assist the student with appropriate classroom behavior. Submit any revised IEP and the CCC Report to the Division no later than May 17, 2000.
2. Develop and implement a medication administration procedure which ensures the student will receive his daily medication at times agreed upon by the parents and school personnel. The procedure should include safeguards which make certain the student receives his medication no earlier or later than thirty minutes from the designated time for the medication to be administered. A copy of the procedure for administration of the student's medication shall be submitted to the Division no later than May 17, 2000.

